

STATE OF TENNESSEE
OFFICE OF THE
ATTORNEY GENERAL
450 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37219

December 29, 1992

OPINION NO. U92-137

Emergency Communications District Fees

QUESTION

Whether Gibson County can legally have its residents' 911 service fee raised to cover the cost of dispatching all emergency calls, all sheriff's patrol calls and emergency calls made to the police and fire departments of various rural towns, the county ambulance authority, and the county fire department.

OPINION

Under T.C.A. §7-86-108, the board of directors of an emergency communications district has the authority to levy an emergency telephone service charge. According to the information given to this office, the emergency communications district in Gibson County is presently charging the maximum service charge allowed under T.C.A. §7-86-108. Therefore, the board cannot increase the amount of the service charge. This office knows of no authority for the district to impose a mandatory dispatch fee upon the county; the county can make appropriations to support the district. It should be noted that T.C.A. §7-86-107(d) requires the agencies involved to have a separate number to handle nonemergency calls.

ANALYSIS

The Emergency Communications District Law, T.C.A. §§7-86-101--7-86-151 (1985 & Supp. 1992), permits a municipal or county legislative body, after a referendum, to create an emergency communications district. T.C.A. §7-86-105 allows for the appointment of a board of directors to run the district.

PAGE 2

Under T.C.A. §7-86-107, the board is to create an emergency communications district capable of using one of four methods of responding to emergency calls: direct dispatch, referral, relay, or transfer. The emergency communications district in Gibson County uses the direct dispatch method, which is defined as follows:

'Direct dispatch method' means a 911 service in which a public service answer point, upon receipt of a telephone request for emergency services, provides for the dispatch of appropriate emergency service units and a decision as to the proper action to be taken.

T.C.A. §7-86-103(1).

T.C.A. §7-86-108(a) provides, in pertinent part:

The board of directors of the district may levy an emergency telephone service charge in an amount not to exceed sixty-five cents (65¢) per month for residence-classification service users, and not to exceed two dollars (\$2.00) per month for business-classification service users, to be used to fund the 911 emergency telephone service.

According to the information supplied by the county attorney, the emergency communications district in Gibson County is charging the maximum service charge permitted under T.C.A. §7-86-108.

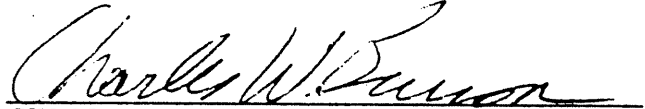
The district in Gibson County has also been charging cities participating in the 911 service a dispatch fee and is now asking the county to pay a dispatch fee for dispatching for the sheriff's department, the county ambulance authority, and the county fire department. From the county attorney's letter, it appears that your question has three component parts: (1) whether it is legal for Gibson County not to pay a dispatch fee; (2) whether the service charges can be used to pay the county's dispatch fee; and (3) whether the county can raise the service charge to cover the additional costs of operating the 911 service and still not pay a dispatch fee.

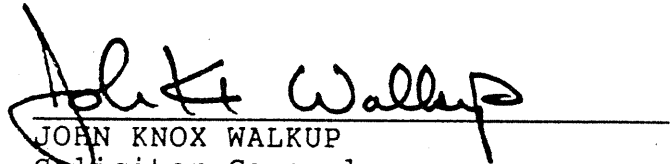
The direct dispatch method of responding to emergency calls is unlike the other three methods in that the 911 service actually dispatches the appropriate emergency services. This office has previously opined that, if an emergency communications district uses the direct dispatch method, the district is responsible for dispatching emergency services and can use the service charges collected to pay for the costs of

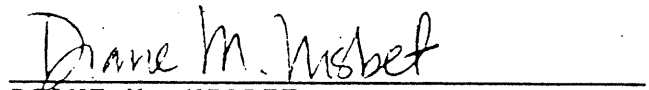
dispatching. See Op. Tenn. Atty. Gen. U89-16 (February 16, 1989). However, since the district in Gibson County is already charging the maximum emergency telephone service charge allowed, the district cannot increase the service charge.

The Emergency Communications District Law does not mention dispatch fees. The only fees or charges authorized by the statute are the emergency telephone service charges. In the absence of any statutory authority for imposing dispatch fees, it is the opinion of this office that the district cannot require the county to pay such a fee. Under T.C.A. §7-86-109, the district can accept additional funding from federal, state, or local governments or from private sources. T.C.A. §7-86-109 also provides that, "Any legislative body of a municipality or county creating a district under the terms of this chapter may appropriate funds to the district to assist in the establishment, operations and maintenance of such district." Thus, the county legislative body could decide to appropriate funds to the district.

The opinion request notes that, under the dispatch system currently used in Gibson County, there is a number other than 911 that is used for emergency and nonemergency calls. Nonemergency calls to this other number are, however, handled by the 911 operator, who dispatches such calls to the appropriate agency. T.C.A. §7-86-107(d) provides that, "The involved agencies may maintain a separate secondary backup number and shall maintain a separate number for nonemergency telephone calls." Allowing the 911 operator to handle nonemergency calls appears to be inconsistent with T.C.A. §7-86-107(d).


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PAGE 4

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